Mine Development Assessment Process

# A Guide to the Review and Certification of Mine Developments

January 1992

Ministry of Energy, Mines and Petroleum Resources
Ministry of Environment, Lands and Parks

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# A Guide to the Review and Certification of Mine Developments

92-05160/

Canadian Cataloguing in Publication Data
British Columbia. Ministry of Energy, Mines and Petroleum Resources.
A guide to the review and certification of mine developments

At head of title: Mine development assessment process.
ISBN 0-7718-9061-3

1. Mining law – British Columbia. 2. Mines and mineral resources – Environmental aspects – British Columbia. 3. British Columbia. Mine Development Assessment Act. I. Title: Mine development assessment process.

KEB349.B74 1991 346.71104'685 C91-092223-3
KF1819.B74 1991

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# 1.0 INTRODUCTION

In August 1991, the Province of British Columbia proclaimed the *Mine Development Assessment Act* which formalized the Province's long-standing Mine Development Review Process.

This guide describes the procedures for reviewing and certifying mine developments in British Columbia pursuant to the *Mine Development Assessment Act* (Appendix 1). It is designed to assist mine proponents, government agencies and the public in understanding the application and certification process. In any interpretation, the Act takes precedence over the guide.

In early 1992, a Discussion Paper examining the need to strengthen the Province's environmental impact assessment legislation will be released for public review. The paper will discuss a variety of issues and present a number of options for change, including new legislation.

## 1.1 *Historical Background*

Coordinated mine reviews in British Columbia date from March 1976, when the provincial Cabinet's Environment and Land Use Committee published the **Guidelines for Coal Development**, and thus instituted a comprehensive review process for coal mining developments. In April 1979, the Ministry of Energy, Mines and Petroleum Resources published the **Procedures for Obtaining Approval of Metal Mine Development**, thereby instituting the parallel Metal Mines Guidelines Review Process for hardrock mineral mining operations. In 1984, the Environment and Land Use Committee combined the two review procedures, superseding them with the Mine Development Review Process. The proclamation of the *Mine Development Assessment Act* establishes the Mine Development Assessment Process.

## 1.2 *Objectives of the Mine Development Assessment Process*

The goal of the Mine Development Assessment Process is to integrate environmental management with economic development by facilitating technically-sound and environmentally-acceptable mining ventures in British Columbia. Under the *Mine Development Assessment Act*, the review process sponsors and implements a comprehensive procedure for project review and approval. Objectives include:

- Providing a "one window" point of contact with government agencies regarding the information and regulatory requirements for specific projects.
- Encouraging early identification of potential environmental, socio-economic/community and public sector financial impacts.
- Focusing particular attention during reviews on developing impact management measures which meet government policy and regulatory requirements.
- Ensuring consultation with the public and specific local governmental, aboriginal and non-governmental groups and interests.
- Cooperating closely with other affected jurisdictions, most notably the federal government, to ensure that, through carefully coordinated review procedures, the requirements of these jurisdictions are satisfied in an expeditious and non-duplicative manner.
- Fostering the consistent application of government policies and programs across the Province.

# 2.0 LEGAL FRAMEWORK

The *Mine Development Assessment Act* provides the legal framework for comprehensive environmental assessments of proposed mine developments.

The Act complements and integrates the regulatory and enforcement provisions of other statutes. It contains significantly expanded provisions for systematic canvassing of aboriginal and public interests, concerns and values.

## 2.1 *Applicability of the Act*

Mine developments subject to the Act are termed "reviewable mine developments," as defined in section 1 of the Act. These include all coal and hardrock mineral mines capable of producing over 10,000 tonnes per year. The Act may also apply to other mines, designated on a discretionary basis by the Chief Inspector of Mines, where potential impacts warrant an integrated review (e.g., placer, sand and gravel or quarrying operations).

As in the past, dedicated off-site infrastructure built for the benefit of a proposed mine (e.g., an access road, railway spur, transmission line spur, port facility and/or any special community requirements) may be designated for review together with the minesite facilities.

## 2.2 *Certificates*

The key approval under section 2 of the Act is the mine development certificate. It replaces the earlier approval-in-principle as the main form of approval issued under the process.

A mine development certificate must be obtained before a "reviewable mine development" can be constructed or operated. Where a "reviewable mine development" is modified, extended or expanded, an application must be filed for an amendment to a certificate.

An application for a mine development certificate must contain an environmental protection plan and any other information and analyses that have been specified by the Minister of Energy, Mines and Petroleum Resources, with the concurrence of the Minister of Environment, Lands and Parks (ministers). Applications are considered public documents and must be made available for public inspection.

The Minister of Energy, Mines and Petroleum Resources (Minister) may give direction on the technical content of an application before it is considered complete and is accepted for disposition under section 3. Applicants, when assembling applications, may also be directed to engage in public consultation or, where the parties to an issue are readily identifiable and agreeable, to participate in mediation efforts to resolve issues.

A mine development certificate is normally valid for the life of a mine, as proposed by an applicant, and as amended during its term, or through term renewal. Relevant provisions have the force of law for as long as the subject mine development remains in operation, and until closure and reclamation have been satisfactorily achieved.

On application to the Minister, certificates may be renewed for a specified term on expiry, and where the only change in the conditions of a mine development certificate is an extension of the term, simple renewal provisions are followed. At a future date, renewal provisions may be incorporated into regulations.

On issuance, a mine development certificate remains in good standing for a period of five years. If development of the mine has not proceeded within five years, a new application may be required.

Where different project components start up at different times, more than one mine operation certificate may be required. For example, the pit workings may be commissioned before the mill, or the mill before the rail spur or port facility.

The purpose of a mine operation certificate is to provide a formal tracking mechanism for relevant conditions in the mine development certificate. Where a certificate(s) is required, it would be issued after construction of the relevant development component, and before operations begin, and would signal satisfactory compliance with pertinent mine development certificate conditions.

## 2.3 *Disposition of Mine Development Certificate Applications*

All decisions regarding the disposition of mine development certificate applications are made by the ministers. There are four choices for disposition of an application for a mine development certificate (or an amendment) under section 3 of the Act. They are:

**1. Review by Assessment Panel and Decision by Ministers**

After reviewing an application for a mine development certificate or an amendment to an application, the ministers may refer an application to an assessment panel for the conduct of an inquiry into an application.

On receipt of a panel report, the ministers may accept an application and issue or amend a mine development certificate, subject to conditions, or reject an application, pursuant to section 6 of the Act.

**2. Accept an Application or Amendment**

The ministers may accept an application and issue a certificate, or amend the terms and conditions of a certificate, subject to any terms and conditions that may be specified by the ministers.

**3. Modify an Application**

The ministers may return an application to an applicant with direction to make modifications and add information as they consider necessary.

**4. Reject an Application**

The ministers may reject an application.

## 2.4 Assessment Panels

If an application for a mine development certificate or an amendment to an existing certificate is referred to an independent assessment panel, under section 4(1) of the Act, the ministers appoint a panel to conduct an inquiry.

To provide for an integrated and non-duplicative review of a development, where federal laws apply, the Minister, under section 8, may enter into an agreement with the Government of Canada to conduct a joint review.

Section 4(2) provides for fees and living expenses to be paid to panelists. Independent technical experts may be hired by the panel (section 4(3) of the Act).

## 2.5 Conduct of Inquiry by an Assessment Panel

The ministers jointly provide a panel with terms of reference for an inquiry, and these terms of reference are made public (section 5(1) of the Act).

Consultation is always required when a panel is conducting an inquiry into an application. Under section 5(3) of the Act, the ministers may direct a panel to engage in a variety of forms of consultation, ranging from public meetings and hearings to negotiation and mediation.

Panelists may be granted various powers for the conducting of an inquiry, up to and including the powers granted to commissioners under the *Inquiry Act* (i.e., the power to subpoena witnesses and documents, and to require evidence to be given under oath). They also have the same protection and privileges as a commissioner appointed under the *Inquiry Act* (i.e., the same protection from legal actions as are given to B.C. Supreme Court Judges).

Panel reports are submitted to the ministers and made public for a reasonable period of time before disposition of an application under section 6 of the Act.

As part of a panel's review, the ministers may direct a panel to examine applications for specific statutory approvals under the *Waste Management Act*, sections 6, 7, 10 or 11 of the *Water Act*, section 10 of the *Mines Act* and section 3 or 4 of the *Mining Right of Way Act*.

## 2.6 *Agreements*

Section 8 of the Act enables the Minister to enter into agreements with the federal government and other jurisdictions with respect to joint reviews. This can occur where other jurisdictions have a mandate to review and/or regulate specific aspects of mine development projects.

## 2.7 *Delegation of Powers*

Under section 9 of the Act, the ministers may delegate their powers and responsibilities to officials in their respective ministries, except for those powers under section 3(1)(a), 4, 5 and 6 of the Act. These sections concern the conduct of an inquiry by an assessment panel and the disposition of an application after a panel's report is submitted.

## 2.8 *Fees*

Section 10 of the Act makes provision for applicants to be charged fees for: all aspects of the processing of an application for a certificate; an amendment of a certificate; the renewal of the term of a certificate; or government activities occasioned by the need to provide an applicant with direction on information to be included in an application for a mine development certificate. (There are no fees at this time.)

The costs incurred by an assessment panel to conduct an inquiry into an application may be charged back, in whole or in part, to an applicant.

## 2.9 *Suspension and Cancellation of Certificates*

Section 11 of the Act enables the Minister to suspend or cancel a mine development certificate in cases of non-compliance with the Act or the terms and conditions of a certificate. Certificates can also be suspended or cancelled where the holder of a certificate fails to exercise any rights under a certificate for five years. Other grounds for cancellation include non-payment of fees or costs, or where the holder/or the agent of the holder of a certificate makes a material misstatement or misrepresentation in a certificate application.

## 2.10 *Enforcement*

It is an offence to construct or operate a reviewable mine development except in accordance with valid and subsisting certificates (section 12 of the Act). The Minister may issue orders to certificate holders in respect of non-compliance. Where ministerial orders are not complied with, the Minister may seek an injunction in the B.C. Supreme Court.

# 3.0 ADMINISTRATIVE FRAMEWORK

The lead agency for the Mine Development Assessment Process is the Ministry of Energy, Mines and Petroleum Resources. The Management Committee, comprised of senior representatives of the ministries of Energy, Mines and Petroleum Resources and Environment, Lands and Parks, is responsible for administering the Act. The Mine Development Assessment Branch, Ministry of Energy, Mines and Petroleum Resources, coordinates the overall review of proposed mine developments by government agencies, local governments, aboriginal groups and the public.

## 3.1 *Mine Development Assessment Branch*

The Mine Development Assessment Branch is responsible for providing administrative support to the Mine Development Assessment Process.

The Branch coordinates the overall review of mine developments and is responsible for the day-to-day operation of the process.

## 3.2 *Management Committee*

The Management Committee is comprised of senior staff from the ministries of Energy, Mines and Petroleum Resources and Environment, Lands and Parks.

It provides overall direction to the Mine Development Assessment Branch and makes recommendations to the ministers of Energy, Mines and Petroleum Resources and Environment, Lands and Parks regarding the disposition of an application.

## 3.3 *Project Assessment Committees*

Project assessment committees are established for each project review. These committees are responsible for overseeing the technical review of mine development proposals.

Members of these committees vary depending upon the impacts of the proposed mine development.

## 3.4 *Regional Project Assessment Committees*

As directed by the Management Committee, the reviews of small projects may be conducted by one of six regional committees for local handling by permitting staff. These advise the Director, Mine Development Assessment Branch, of the results of reviews prior to the Management Committee making recommendations to the ministers, who make a decision concerning the disposition of an application.

These committees are based in:

- Smithers (Northwest Project Assessment Committee);
- Prince George (Northeast-Cariboo Project Assessment Committee);
- Kamloops (South Central Project Assessment Committee);
- Fernie/Nelson (Kootenay Project Assessment Committee);
- Vancouver (Lower Mainland Project Assessment Committee); and
- Nanaimo (Vancouver Island Project Assessment Committee).

Committee members include technical staff from key provincial and federal agencies.

# 4.0 THE APPLICATION PROCESS

The Mine Development Assessment Process consists of two phases: pre-application and application. Figure 1 outlines the two phases of the process.

To facilitate the preparation and review of an application, applicants are expected to submit a prospectus. This document contains a brief description of the project and potential environmental and socio-economic impacts, and proposed consultation program.

Applications contain a detailed plan of the proposed mine development as well as a detailed assessment of the environmental and socio-economic impacts, and impact mitigation or management proposals.

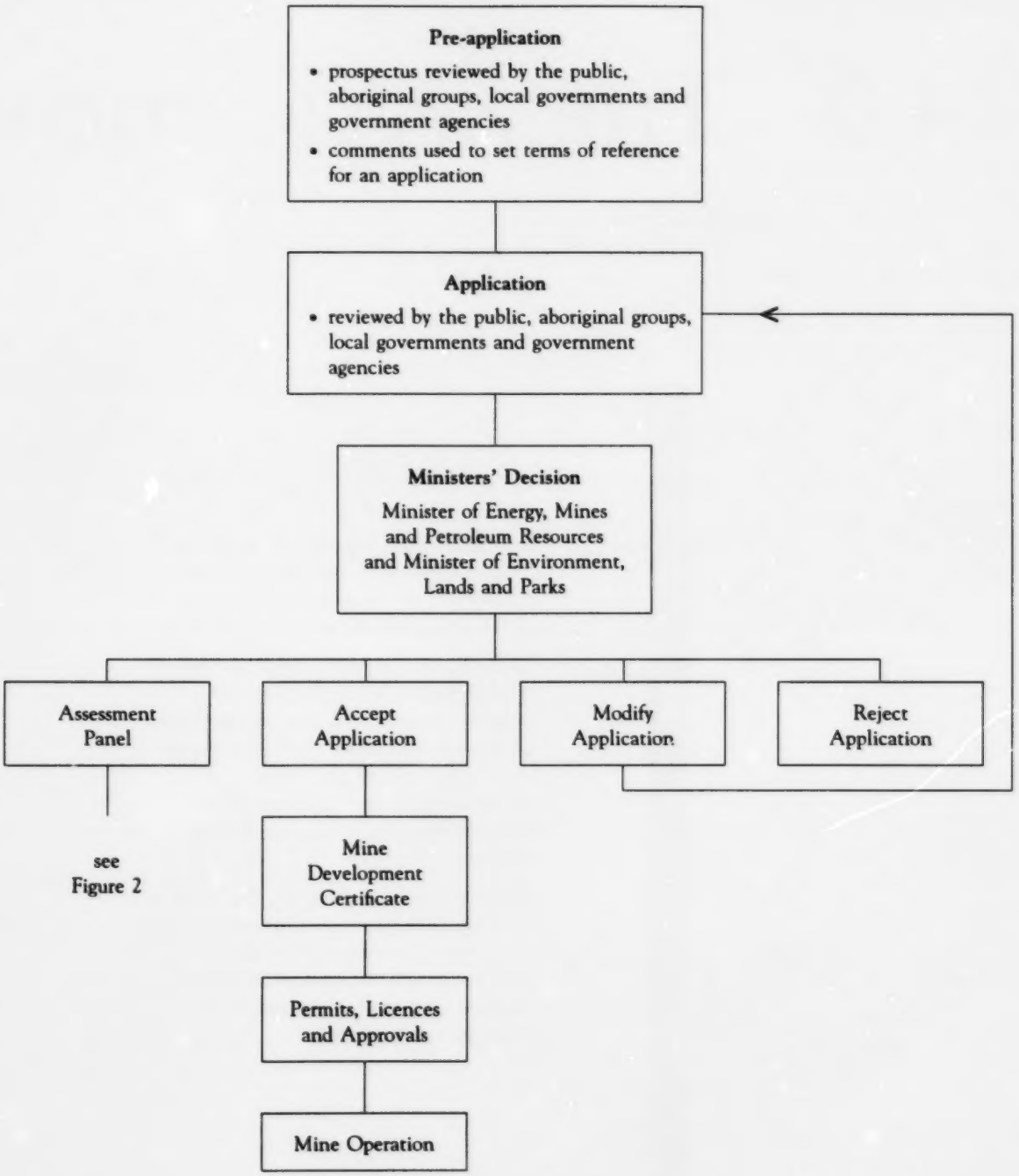
Pre-application
• prospectus reviewed by the public, aboriginal groups, local governments and government agencies
• comments used to set terms of reference for an application
Application
• reviewed by the public, aboriginal groups, local governments and government agencies
Ministers' Decision
Minister of Energy, Mines and Petroleum Resources and Minister of Environment, Lands and Parks
Assessment Panel
Accept Application
Modify Application
Reject Application
see Figure 2
Mine Development Certificate
Permits, Licences and Approvals
Mine Operation

Figure 1. Flowchart outlining pre-application, application and decision phases of the Mine Development Assessment Process.

## 4.1 *Pre-Application Phase*

To facilitate the preparation and review of an application, applicants are expected to submit copies of a prospectus to the Director of the Mine Development Assessment Branch. The number of copies required for distribution is determined by the Branch Director. Depending upon the complexity of a project, the review may be referred to one of the regional project assessment committees. Prior to filing a prospectus, proponents should meet with the Branch Director to discuss the project and the review process.

The purpose of the prospectus is to provide a brief overview of the project. The preparation of a prospectus should not be an onerous task. It should contain a brief description of the proposed project and the potential environmental and socio-economic impacts, and proposed consultation program. It is normally filed by the proponent following preliminary exploration and prefeasibility studies. For small, simple projects, the prospectus may become the application.

The proposed consultation program should identify the parties that might have an interest in or be affected by the proposed project, and the general approach that will be used to inform and consult them. Appendix 2 outlines several techniques to use to consult the public and aboriginal groups.

Topics that should be briefly addressed in the prospectus are listed in Appendix 3. The prospectus should also include a summary of the proposed economic and social impacts (Appendix 4). Appendix 5 contains a list of guidelines which provide direction to applicants on the type and level of information that should be included in a prospectus.

The length of the pre-application phase depends upon the complexity of an individual project and the completeness of the prospectus.

***Consultation***

Once a prospectus is submitted, applicants must advertise its availability in local newspapers as specified by the Director of the Mine Development Assessment Branch. Notices must contain the following information:

- that a prospectus is available to the public;
- where copies of a prospectus may be obtained; and
- the deadline and address for filing comments on a prospectus.

As specified by the Director, proponents are required to forward copies of a prospectus to local governments, aboriginal groups, public libraries and other locations. Deadlines for the timing of reviews will be set by the Management Committee.

A review of the prospectus by government agencies and the parties listed above enables information gaps to be identified prior to a mine proponent submitting a formal application. Applicants are encouraged to consult aboriginal groups and the public early in the pre-application phase so that concerns can be quickly identified and addressed in a timely manner.

Based on the written comments received from review participants, terms of reference are drafted for the forthcoming application. Once drafted, this report is sent to all participants in the review.

## 4.2 *Application Phase*

A proponent who wishes to construct a "reviewable mine development" must submit an application to the Minister via the Mine Development Assessment Branch. The number of copies required for distribution is determined by the Branch Director.

An application must comply with the terms of reference provided after the prospectus review. It should include the following:

- corporate information;
- a project description;
- a description of associated infrastructure;
- relevant baseline information from which potential impacts can be determined and impact management strategies developed;
- an assessment of environmental and socio-economic impacts and a plan for the mitigation of identified impacts;
- a summary of consultation activities and a plan for further consultation;
- a list of all anticipated provincial and federal approvals, licences and permits;
- a follow-up program; and
- any other relevant information required by the Minister.

Appendix 5 contains guidelines which provide direction to applicants on the type and level of information that should be included in an application. At least one year of field baseline information is required to define the local climate and environment. This information is required in order to determine the resources that are at potential risk, and to help the applicant develop adequate mitigation strategies.

An application may consist of a number of reports. The documents forming an application must satisfy the requirements of the ministers to allow them to make a disposition decision.

Appendix 6 contains a list of the provincial and federal approvals, licences and permits that applicants may be required to obtain.

***Consultation***

Once an application is submitted, applicants must advertise its availability in local newspapers as specified by the Director of the Mine Development Assessment Branch. Notices must contain the following information:

- that an application is available to the public;
- where copies of an application may be obtained; and
- the deadline and address for filing comments on an application.

Copies of an application must be made available to local governments, aboriginal groups, public libraries and other locations as specified by the Director. Guidelines and deadlines for the timing and scope of reviews of applications will be set by the Management Committee. Additional consultation may be required by applicants as considered necessary by the Committee.

Upon the completion of a review, the Mine Development Assessment Branch summarizes the review comments that have been received, and the results of the review are made available to the public and sent to all review participants. The public is also advised of their availability.

## 4.3 *Disposition Decision*

In making recommendations to the ministers regarding the disposition of an application, the Management Committee considers:

- the results of any mediation efforts; and
- the review comments received from government agencies, local governments, aboriginal groups and the public.

There are four choices for disposition of an application (or an amendment) under the Act:

- refer the application to an independent assessment panel;
- accept the application;
- return the application for upgrading; or
- reject the application.

Following the disposition of an application, the public is advised of the decision in relation to an application and the reasons for the decision.

If accepted, a mine development certificate is issued and the terms and conditions of the certificate are identified, including any follow-up program and/or mitigation measures to be implemented.

If disposition follows the referral to an assessment panel, government's response to the report of a mediator or an assessment panel is announced.

## 4.4 *Panel Reviews*

Figure 2 is a flowchart illustrating the steps to be taken following the referral of an application to an independent panel. A panel may be required to hold a public hearing or engage in other forms of public consultation such as negotiation and mediation.

The Act provides for both formal and informal public hearings. During panel reviews, independent technical experts hired by the panel may be used by public groups to assist them in their review of applications.

The panel's final report and recommendations are made available to the public before a disposition decision is made.

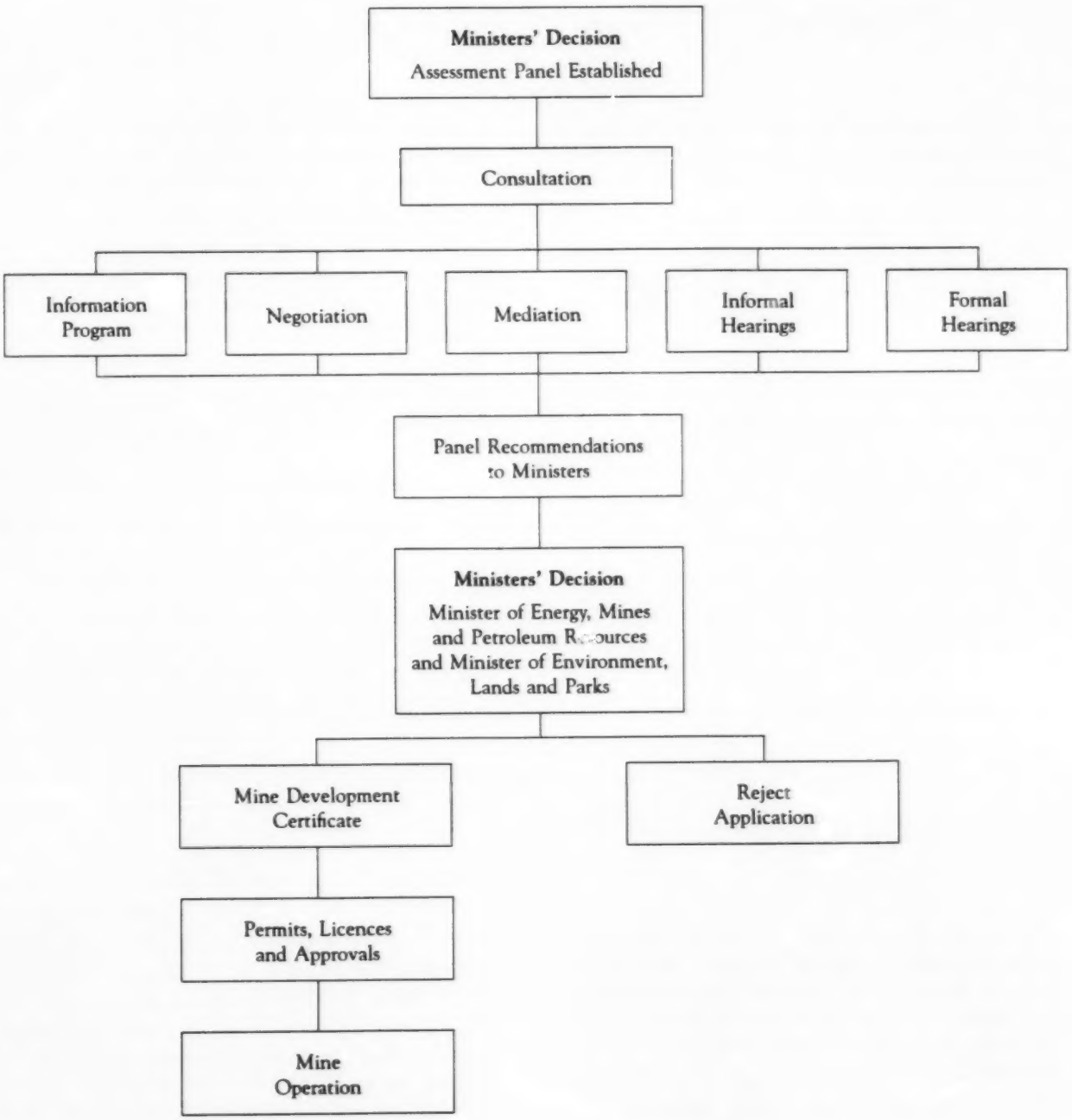


Figure 2. Flowchart illustrating the steps to be taken following the referral of an application to an independent assessment panel.

# 5.0 CONSULTATION

Opportunities for input from local governments, aboriginal groups and the public are provided at all stages of the Mine Development Assessment Process. Consultation is required before an application is accepted for disposition, during the review and disposition of an application, and during an inquiry by an assessment panel.

Because there is no one formula that will meet the needs of the public in all cases, consultation is determined on a project-by-project basis. The intent of the Act is to allow flexibility to design public involvement programs that are tailored to each project review.

## 5.1 *Objectives*

The objectives of consulting during the review of mine developments are:

- to inform the public of the proposal;
- to provide organized avenues for involvement;
- to identify the specific concerns of individuals or groups likely to be affected by a project;
- to weigh the various concerns with respect to an application as part of the overall decision-making process, and thereby to improve the decisions themselves; and
- to inform the public of the reasons for decisions.

The public should be involved as early as possible in the planning stages of a mining proposal. The role of the public is to indicate their interests, concerns and values, and to supply local knowledge. For all projects, participation is part of the normal decision-making process.

## 5.2 *Role of Proponent*

Mine proponents are primarily responsible for arranging and engaging in consultation.

The role of the proponent is:

- at the pre-application phase, to identify the interested and affected public that might have concerns about a project, and to ensure that they receive all relevant information concerning a project;
- at the direction of the Director of the Mine Development Assessment Branch, to publish notices in local newspapers that indicate when a prospectus or an application is being reviewed and that copies are available;
- to design a consultation program that provides information about the project; and
- to meet with groups to discuss project proposals, their concerns and options to address these concerns.

Where major public concerns emerge, government staff become more involved in the consultation process.

## 5.3 *Role of Government*

The role of government staff with respect to consultation during the review of mine developments is:

- to explain the process for reviewing mine developments, and relevant government policies, procedures and regulatory requirements;
- pursuant to section 2 of the Act, to explore alternate dispute resolution mechanisms such as mediation and negotiation;
- where ministers decide, to establish the assessment panel and participate in public hearings; and
- in general, to ensure that there is adequate consultation during the review of applications.

# 6.0 OTHER CONSIDERATIONS

## 6.1 *Relationship to Other Environmental Assessment Processes*

Situations may arise where some components of a mine development fall under the Major Project Review Process and/or Energy Project Review Process. In this regard, all statutory and other requirements would be satisfied under one process.

Under the Act, the Minister may enter into agreements with the federal government and other jurisdictions with respect to joint reviews. The two key federal agencies (Environment Canada and Fisheries and Oceans Canada) have been fully involved in all mine development reviews of interest to them since 1978, and have been a party to the approval-in-principle decisions in all such cases. Joint assessment of mine projects in British Columbia has been a reality for more than a decade.

Most applications for mine development certificates are screened under the federal Environmental Assessment and Review Process. For such projects, reviews are coordinated with the federal review to provide mine proponents with a single set of information requirements under the Mine Development Assessment Process. A decision to refer a review of a mine development to an independent panel may be made by both the provincial and federal governments. In these cases, a panel would be jointly established by both governments under provincial and federal legislation.

## 6.2 *Confidentiality*

The process provides open access to information; however, applicants may request that certain proprietary financial or technical information remain confidential. Information that an applicant wishes to remain confidential should be sent to the Minister under separate cover, accompanied by an explanation of the reasons for confidentiality. If the Minister declines to accept the request for confidentiality, all the information, including any copies, will be returned to an applicant.

# 7.0 CONTACTS

For further information concerning the *Mine Development Assessment Act* or this guide, please contact:

Director
Mine Development Assessment Branch
Ministry of Energy, Mines and Petroleum Resources
Room 105, 525 Superior Street
Victoria, British Columbia
V8V 1X4

Telephone: (604) 356-2212
Fax: (604) 387-5985

# APPENDIX 1: Mine Development Assessment Act



## MINE DEVELOPMENT ASSESSMENT ACT

### CHAPTER 55

*[See status sheet following this Act.]*

*Assented to July 27, 1990*

Contents

Section

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5. Conduct of inquiry by assessment panel
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9. Delegation to officials
10. Fees
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12. Enforcement
13. Regulations
14. Transitional
15. Commencement

### Interpretation

**1.** (1) In this Act

"assessment panel" means a panel appointed under section 4;

"certificate" means, as the case may be, a mine development certificate or mine operation certificate;

"construct" includes modify, extend or expand;

"mine development certificate" means a mine development certificate required under section 2;

"mine operation certificate" means a mine operation certificate required under section 3 (2) or 6 (1) (a);

"mineral mine" means a mine at which a mineral, as defined in the *Mineral Tenure Act*, is being or could be mined;

"public hearing" means a hearing held by an assessment panel for which public notice is given, that is open to the public and that is conducted in accordance with procedures determined by the assessment panel under section 5 (5);

"reviewable mine development" means

(a) a coal mine or mineral mine that, in the opinion of the chief inspector, is capable of producing 10 000 tonnes per year of coal or mineral ore, as the case may be, and that is constructed after the date on which this Act comes into force, or

(b) any other mine that is designated a reviewable mine development by the chief inspector,

and includes both the facilities at the minesite and such offsite facilities as are designated by the chief inspector.

(2) Except as provided in this Act, words and phrases used in this Act have the meanings given to them in the *Mines Act*.

1990-55-1.

**Mine development certificate**

**2.** (1) A person who wishes to construct a reviewable mine development shall apply to the minister for a mine development certificate.

(2) An application for a mine development certificate or an amendment to the terms and conditions of a mine development certificate shall contain information, analyses and an environmental protection plan as required by the minister with the concurrence of the Minister of Environment.

(3) An application under subsection (1) shall be made available for inspection by the public in accordance with the regulations.

(4) Before accepting the application, the minister may

(a) provide direction and advice on the information, analyses and environmental protection plan to be included in the application, or

(b) require the applicant to participate in

(i) any public consultation that the minister considers appropriate, or

(ii) mediation with any person or groups of persons as the minister directs.

(5) On or before the expiry of the term of a mine development certificate, the holder of the certificate may apply to the minister for a renewal of the certificate

1990-55-2.

**Disposition of application**

**3.** (1) After reviewing an application under section 2, the minister, with the concurrence of the Minister of Environment, may

(a) where they consider it necessary in the public interest, refer the application to an assessment panel for the conduct of an inquiry into it,

(b) accept the application and issue a mine development certificate or amend the terms and conditions of a mine development certificate, as the case may be, subject to any terms and conditions that the minister and the Minister of Environment may specify,

(c) return the application to the applicant with direction to make such modifications and add such information as the minister and the Minister of Environment consider necessary, or

(d) reject the application.

(2) The terms and conditions specified under subsection (1) (b) may include, without restriction, a condition that the applicant obtain one or more mine operation certificates.

1990-55-3.

**Assessment panel**

**4.** (1) If the minister refers an application under section 2 to an assessment panel, the minister and the Minister of Environment may appoint an assessment panel of one or more members to conduct an inquiry into the application.

(2) The Lieutenant Governor in Council may, by order, authorize the minister to pay remuneration and reasonable living and travelling expenses to the members of an assessment panel.

(3) If authorized by the minister and the Minister of Environment, the assessment panel may appoint or engage persons having special technical knowledge necessary to assist the assessment panel in conducting its inquiry, and may appoint such administrative support staff as may be necessary for the conduct of the inquiry.

1990-55-4.

**Conduct of inquiry by assessment panel**

**5.** (1) An assessment panel shall conduct its inquiry in accordance with terms of reference specified by the minister and the Minister of Environment, and the terms of reference shall be made public.

(2) The terms of reference of an assessment panel may include a requirement that the assessment panel consider whether or not an approval, licence, permit or other statutory authorization or an amendment to any of them should be made, given or issued under the *Waste Management Act*, section 6, 7, 10 or 11 of the *Water Act*, section 10 of the *Mines Act* or section 3 or 4 of the *Mining Right of Way Act*.

(3) For the purpose of conducting its inquiry, the minister and the Minister of Environment may require the assessment panel to hold and preside over a public hearing into some or all of the matters placed before it under subsection (1) or (2), or to engage in such other forms of public consultation as the minister and the Minister of Environment may specify.

(4) The Lieutenant Governor in Council may, by order and subject to any conditions prescribed in the order, authorize the minister and the Minister of Environment to confer on members appointed to an assessment panel various powers for the conducting of an inquiry, and those powers may include the powers granted to a commissioner under sections 15 and 16 of the *Inquiry Act*.

(5) Subject to the regulations, a panel shall determine its own procedure and may consider such evidence and information as it considers proper, whether or not the evidence is admissible in a court of law.

(6) The members of an assessment panel have, for the purposes of conducting an inquiry, the same protection and privileges as a commissioner under section 12 of the *Inquiry Act*.

(7) On conclusion of its inquiry, the assessment panel shall submit a report and recommendations to the minister and the Minister of Environment and the ministers shall make the report and recommendations public for a reasonable period of time before disposing of the application under section 6.

1990-55-5.

**Disposition after report by assessment panel**

**6.** (1) On receipt of the report and recommendations of an assessment panel, the minister, with the concurrence of the Minister of Environment, may dispose of an application made under section 2 by

(a) accepting the application and issuing a mine development certificate or amending the terms and conditions of a mine development certificate, as the case may be, subject to any terms and conditions that the minister and the Minister of Environment may specify, including any terms and conditions that the minister and the Minister of Environment may specify with respect to the need to obtain one or more mine operation certificates, or

(b) rejecting the application.

(2) Where, under section 5 (2), the assessment panel has recommended that an approval, licence, permit or other statutory authorization or an amendment to any of them under the *Waste Management Act*, the *Water Act*, the *Mines Act* or the *Mining Right of Way Act* be made, given or issued, the Lieutenant Governor in Council may order that

the approval, licence, permit or other statutory authorization or an amendment to any of them be made, given or issued subject to any conditions that the Lieutenant Governor in Council specifies.

(3) Where the Lieutenant Governor in Council makes an order under subsection (2), the person, board, tribunal or agency that has, apart from this Act, the authority or power to issue or decide to make, give or issue the approval, licence, permit or other statutory authorization or amendment of it shall, notwithstanding anything in the *Waste Management Act*, the *Water Act*, the *Mines Act* or the *Mining Right of Way Act*, make, give or issue it in accordance with the order.

(4) An order under subsection (2) and any approval, licence, permit or other statutory authorization or amendment of it under subsection (3) is final and binding and not subject to any review or appeal under the Acts referred to in those subsections.

1990-55-6.

**Mine operation certificate**

**7.** (1) If a mine operation certificate is required under a mine development certificate, an application for the mine operation certificate shall be made to the minister in accordance with the directions and conditions specified in the mine development certificate.

(2) On receipt of an application under subsection (1), the minister shall issue a mine operation certificate if the minister considers that the relevant terms and conditions of the mine development certificate have been complied with.

1990-55-7.

**Agreements**

**8.** The minister may enter into agreements consistent with this Act with the government of Canada and with other jurisdictions with respect to the conduct of assessments under this Act.

1990-55-8.

**Delegation to officials**

**9.** (1) The minister or the Minister of Environment may delegate any of his or her powers or functions under this Act other than under section 3 (1) (a), 4, 5 or 6 to an employee of the Ministry of Energy, Mines and Petroleum Resources or the Ministry of Environment, as the case may be, as specified in the delegation.

(2) This section does not restrict or limit section 23 of the *Interpretation Act*.

1990-55-9.

**Fees**

**10.** (1) The minister may charge fees established in accordance with the regulations in connection with an application for a certificate, an amendment of a certificate, the renewal of the term of a certificate or activities undertaken under section 2 (4) (a).

(2) The minister may charge the costs incurred by an assessment panel to conduct an inquiry into an application in whole or part to the applicant.

1990-55-10.

**Suspension and cancellation of certificates**

**11.** (1) Subject to this section, the minister may by notice served on the holder of a certificate suspend the certificate for any period or cancel the certificate.

(2) A notice served under subsection (1) shall state the time at which the suspension or cancellation is to take effect.

(3) The power conferred under subsection (1) is exercisable where

(a) a holder of a certificate does not exercise any rights under the certificate for a period of 5 years,

(b) a holder of a certificate fails to pay money owing to the Crown under or in connection with this Act,

(c) a holder of a certificate fails to comply with the conditions in the certificate,

(d) a holder of a certificate fails to comply with an order issued under this Act, or

(e) a holder of a certificate or the agent of the holder of the certificate makes a material misstatement or misrepresentation in the application for the certificate or in the information, analyses or environmental protection plan required under this Act or the regulations with respect to the certificate.

1990-55-11.

**Enforcement**

**12.** (1) Notwithstanding any other Act, no person shall

(a) construct or operate a reviewable mine development except in accordance with a valid and subsisting mine development certificate, or

(b) if required to obtain one or more mine operation certificates, operate a reviewable mine development except in accordance with those certificates.

(2) Where the minister considers that a reviewable mine development is not being constructed or operated in accordance with a valid and subsisting certificate, the minister may,

(a) if no certificate has been issued with respect to the reviewable mine development, order that construction or operation cease until a certificate is issued, or

(b) if a certificate has been issued with respect to the reviewable mine development, order that construction or operation cease until the holder of the certificate complies with the certificate.

(3) Where the holder of the certificate is a corporation, the minister may order an officer or director of the corporation to comply with an order under subsection (2).

(4) Where a person fails or refuses to comply with an order of the minister under subsection (2) or (3), the minister may apply to the Supreme Court for an injunction restraining the person from disobeying the order.

1990-55-12.

**Regulations**

**13.** (1) The Lieutenant Governor in Council may make regulations.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting

(a) applications under this Act and the procedures to be followed for the filing of those applications,

(b) the contents of the information, analyses and environmental protection plan required under section 2,

(c) the review and disposition of applications under this Act,

(d) the establishment of assessment panels, the qualifications of members of assessment panels and the conduct of inquiries by assessment panels,

(e) the conduct of public hearings by assessment panels,

(f) the public consultations that may be required before an application is accepted for disposition, during the review and disposition of an application or during an inquiry by an assessment panel,

(g) the determination of responsibility for, and procedures for payment of, costs connected with an inquiry conducted by an assessment panel,

(h) the issue or amendment under section 6 of an approval, licence, permit or other statutory authorization under another Act,

(i) the implementation of agreements under section 8,

(j) the establishment of fees referred to in section 10 (1),

(k) the suspension or cancellation of certificates, and

(l) the powers and duties of the chief inspector under this Act.

(3) Regulations governing fees under subsection (1) (j) may prescribe different fees

(a) with respect to applications for different classes of reviewable mine developments or different production capacities of reviewable mine developments, or both, and

(b) according to the procedural and technical complexity of an application for a certificate.

1990-55-13.

**Transitional**

**14.** (1) The Lieutenant Governor in Council may, by regulation enacted within 60 days of the coming into force of this Act, order that a reviewable mine development is exempt from some or all of the provisions of this Act or the regulations if the minister considers that lawful construction had substantively commenced or that review of the reviewable mine development was substantively complete before the coming into force of this Act.

(2) Where a proposed mining development that qualifies as a reviewable mine development under this Act is in the process of being reviewed by the government in accordance with procedures generally known as the mine development review process when this Act comes into force, and construction of the proposed mining development has not yet commenced, the proposed mining development shall be deemed to be a reviewable mine development under this Act unless, within 60 days of the coming into force of this Act, the Lieutenant Governor in Council, by regulation, exempts the proposed mining development from some or all of the provisions of this Act.

(3) The minister may specify that, where a proposed mining development is in the process of being reviewed by the government in accordance with procedures generally known as the mine development review process when this Act comes into force, and, notwithstanding subsections (1) and (2), qualifies as a reviewable mine development under this Act, submissions that had previously been filed under the mine development review process may be accepted by the minister as all or part of an application under this Act.

1990-55-14.

**Commencement**

**15.** This Act comes into force by regulation of the Lieutenant Governor in Council.

1990-55-15.

# Appendix 2: *Methods for Consultation*

Consultation is required for all project reviews. Applicants are largely responsible for developing consultation programs.

During the pre-application and application phases, mine proponents are required to: notify aboriginal groups and the public when a prospectus or application is submitted; provide access to submissions; and allocate an adequate amount of time for the public to review documents.

A number of informal and formal methods of consultation are available to use to involve the public in mine reviews, each one having different degrees of usefulness in different situations. Some of these methods are outlined below.

## Methods That Provide for One-Way Communication

- advertisements;
- brochures/pamphlets; and
- audio-visual/poster displays.

### *Advertisements*

Advertisements are used to: inform the public of events of importance; announce meetings; provide updates on the status of a project or issues; and occasionally, rebuttals of published misinformation. They may also be used to obtain feedback from the public by inviting comments.

### *Brochures/Pamphlets*

Brochures and pamphlets are used to provide the public with information about a project. They usually deal with one or several topics, with the intention of giving all parties a common understanding or update on one or more issues.

### *Audio-Visual/Poster Displays*

Audio-visual aids, such as videos and poster displays, provide information to the public. They can be used at open houses, store-front offices and public meetings.

## Methods That Provide for Two-Way Communication

- workshops;
- open houses/store-front offices;
- public meetings; and
- public hearings.

### *Workshops*

Workshops enable participants to discuss issues in detail, and to participate in problem solving. They differ from public meetings because workshops are held to examine specific issues. They are useful when dealing with complex topics as a means to convey technical information.

### *Open Houses/Store-Front Offices*

Open houses and store-front offices provide an opportunity for the public to meet a proponent and to gain information on a project. Questionnaires may also be provided for the public to indicate their concerns.

### *Public Meetings*

Public meetings are less formal than public hearings. There are a number of alternative formats for public meetings. Among the major formats are:

- Large group — These are large public meetings without the formal procedures of a public hearing. For example, a list of speakers is often established at the beginning of a hearing; whereas, in a large public meeting, people do not necessarily speak in any particular order.
- Large group/small group — If discussion is desired, even if the crowd is large, it is possible to break a large group into smaller discussion groups. These groups report back to the main group at the end of the meeting. Small group discussions enable everyone to participate.
- Panel/round table — A panel of representatives with differing viewpoints is selected. Each panel member discusses the issues from their point of view. This is followed by questions from the audience or small group discussions.

The type of meeting format selected will depend upon what one wants to accomplish at a meeting. The meetings described above can serve the following basic functions: information giving; information receiving; and interaction. Factors such as anticipated audience size, the level of interest in the issue, and the degree of controversy, should also be taken into account when choosing a meeting format.

Meetings should be held at a time and place convenient to the public. This usually means that meetings are held in the evenings and on weekends. The dates and times of meetings should be well publicized.

# APPENDIX 3: *Information Requirements for a Prospectus*

The following topics should be briefly addressed in a prospectus:

- corporate information;
- property history;
- geology and reserves;
- any proposed pilot mining or ore processing;
- proposed daily and annual production levels and mine life at full production;
- pits/underground workings (location, design, etc.), if extraction is intended;
- mine rock dumps (location, size, etc.);
- ore stockpiles (both on-site and off-site);
- milling and tailings systems (including flow sheets, if available);
- power supply (transmission line or on-site generation);
- any other on-site facilities;
- property access (air, road, rail);
- product haulage system (routing, etc.);
- shipping facilities (if any);
- size and source of workforce;
- housing of workforce (camp, local community(ies), etc.);
- proposed development timetable;
- appropriate accompanying maps, preferably including cadastral information which helps with site location relative to administrative boundaries, etc.;
- a summary of environmental and socio-economic baseline information and proposed study program;
- a brief review of likely environmental and socio-economic impact issues; and
- proposed consultation program.

# APPENDIX 4: *Economic and Social Impact Highlights*

The following information should be included in a project fact sheet:

***Corporate Data***

Project Name:
Company Name(s) and Address(es):
Contact/Title:

***Project Details***

Project Location (including National Topographic System):
Estimated Capital Cost (include dedicated off-site infrastructure):
Minerals (types to be mined):
Mine System (open pit or underground):
Estimated Production (daily or annual mill/plant throughput):
Process Plant/Mill (type of process, if known):
Proposed Mine Life (years):

***Mineral Reserves/Resources***

Reserves/Resources (tonnes in each category):
Average Grade of Ore (each mineral commodity):
Cut-off Grade:
Potential for Additional Reserves:

***Access/Transportation***

Road (preference and alternates):
Rail (routing):
Air Access (origin and destination points):
Shipping (preferred port facilities, alternates):

***Power Supply***

Requirements:
Supply Alternatives:

***Mining Equipment***

List of Mobile Equipment Over 5000 kg (new/used):
Proposed Method for Mine Heating (for underground mines):
Mine Hoist to be used (yes/no, type):
List of all Diesel Powered Equipment:

***Workforce Information***

Total Operational Workforce (annual average at full production):
Supply of Construction Workforce:
Supply of Operational Workforce:
Housing Options (camp, neighbouring communities, new town):
Construction Workforce (by month):
Construction Camp (size):
Workforce Rotation (weeks on/off):

***Development Schedule***

Application Filed (month/year):
Site Construction Start-up (quarter/year):
Production Start-up (quarter/year):

# APPENDIX 5: *Guidelines for an Application for a Mine Development Certificate*

Individual guidelines, which outline the information that is required in an application for a mine development certificate, are currently being reviewed and drafted by provincial agencies. Guidelines will be available in the following areas:

- Mine planning
  - — tailings dams
  - — haul roads
  - — mine rock dumps
  - — rock drains
- Reclamation
  - — requirements
  - — bonding
  - — acid mine drainage
- Hydrology
  - — water balance
  - — water management planning
- Hydrogeology
- Water quality monitoring
- Effluent discharges and air emissions
- Acid generation prediction and prevention
- Cyanide management and handling
- Fisheries and wildlife population and habitat data
- Archaeology impact assessment

# APPENDIX 6: *Approvals, Licences and Permits*

It is the responsibility of each applicant to ensure compliance with all relevant enactments, including federal, provincial and municipal requirements. This appendix contains a list of the provincial and federal approvals, licences and permits that may be required; however, this list is not exhaustive. Accordingly, it is the responsibility of each applicant to ensure that all requirements relative to a mining project are satisfied.

| Statute | Description | Agency |
|---|---|---|
| **A. Provincial Statutes** | | |
| Agricultural Land Commission Act | Permission to use land in an agricultural land reserve for a purpose other than farm use. Compliance with *Guidelines for Linear Development on Agricultural Land*. | Agricultural Land Commission, Ministry of Agriculture, Fisheries and Food |
| Coal Act | Licence required to explore for or develop coal on coal land. Leases are long term tenures which allow for production. | Resource Management Branch, Ministry of Energy, Mines and Petroleum Resources |
| Commercial Transport Act | Registration and licensing of commercial vehicles; regulations and permits respecting commercial vehicle operation and weight. | Weight-master, Motor Vehicle Branch, Ministry of Transportation and Highways |
| Environment Management Act | Requirement for impact assessment, environmental protection order, as required. | Environmental Assessment Branch, Ministry of Environment, Lands and Parks |
| Fire Services Act | Regulations for the storage, handling and use of flammable and combustible liquids; permit system in connection with the storage of flammable and combustible liquids. | Local Fire Commissioner, Ministry of Attorney General |
| Fisheries Act (B.C.) | Requirements for designated rivers, streams and waterways regarding the provision of fish protective devices on dam or hydraulic projects; approval of plans affecting the passage of fish. Regulation of the operation of all commercial aquaculture facilities and fish processing. | Aquaculture and Commercial Fisheries Branch, Ministry of Agriculture, Fisheries and Food |
| Forest Act | Permission to use provincial forest for other than the enumerated purposes; licence or permit for cutting timber; permit for use of fire. | Ministry of Forests |
| Health Act | Approval of construction camp operations. Regulations for sanitation, sewage disposal, sanitation and operation of food premises, and industrial camps health regulations. | Provincial Health Officer, Ministry of Health and Minister Responsible for Seniors |
| Heritage Conservation Act | Permit to excavate or alter sites of archaeological or historic significance. | Ministry of Tourism, and Minister Responsible for Culture |

| Statute | Description | Agency |
|---|---|---|
| Highway Act | Approval of plans affecting designated highways and access to highways, including setback and sight clearance restrictions. | Regional Approving Officer, Ministry of Transportation and Highways |
| Health, Safety and Reclamation Code | Compliance with the code, which covers worker health and safety, mechanical/ electrical and reclamation requirements, is necessary. | Resource Management Branch, Ministry of Energy, Mines and Petroleum Resources |
| Land Act | Requirements regarding the disposition of Crown land including: sales, leases, licences of occupation, rights-of-ways, easements and leases or other dispositions of building or construction materials; permission to construct upon Crown land, including access roads, and gravel removal orders. | Regional Operations, Ministry of Environment, Lands and Parks |
| Mineral Tenure Act | Enables a mineral claim holder to secure the surface rights to a mineral by registering all claims with the Province. Mining leases are long term tenures which allow for production. For work on a mineral claim in a Recreation Area, section 19 of the Mineral Tenure Act requires a reclamation permit to be co-signed by the Ministry of Lands and Parks and the Ministry of Energy, Mines and Petroleum Resources. | Mineral Titles Branch, Ministry of Energy, Mines and Petroleum Resources |
| Mines Act | Proponents required to outline proposed work plan and a program for the protection and reclamation of the land and watercourses affected by a mine. | Resource Management Branch, Ministry of Energy, Mines and Petroleum Resources |
| Mining Right of Way Act | Contains provisions for resolving disputes regarding the taking of a right of way or the use of an existing road to access a mining property. Establishes a mechanism whereby capital and/or maintenance costs may be allocated through a system of user fees. | Resource Management Branch, Ministry of Energy, Mines and Petroleum Resources |
| Municipal Act | By-laws within municipal and regional district boundaries. | Municipal Councils, Regional District Boards |
| Soil Conservation Act | Approval and permit necessary for the removal of soil from an agricultural land reserve. Regulations to prevent and control soil erosion. | Agricultural Land Commission, Ministry of Agriculture, Fisheries and Food |
| Utilities Commission Act | Energy project and energy operation certificate for the construction and operation of a regulated project. Energy removal certificate for the removal of an energy resource from the Province. Regulation of public utilities, including certificates of public convenience and necessity. | Energy Resources Division, Ministry of Energy, Mines and Petroleum Resources |

| Statute | Description | Agency |
|---|---|---|
| Waste Management Act, Litter Act | Permit or temporary approval from the regional waste manager for the discharge or emission of effluent, waste material, contaminants on land, into water or into the air; restrictions regarding the discharge or disposal of litter, sewage or waste on land or into water. | Environmental Protection Division, Ministry of Environment, Lands and Parks |
| Water Act | Water licence or approval from the regional water manager for the use, diversion or storage of water for the alteration of streams or channels and operation of works in and about water bodies. Permits authorizing the flooding of Crown land or the construction, maintenance or operation of works on Crown land. | Water Management Branch, Ministry of Environment, Lands and Parks |
| **B. Federal Statutes** | | |
| Canadian Environmental Protection Act | Addresses protection of the environment and human health. It focuses on the prevention of toxic problems before they occur and the control of toxic substances throughout their lifecycles. Processes are in place to control toxic substances presently in commerce and to assess the hazards of new chemicals before they reach the marketplace. | Environmental Protection, Environment Canada |
| Environmental Assessment and Review Process Guidelines Order | A review of the potential environmental and directly related social effects is required for any proposal that may have an environmental effect on an area of federal responsibility. An initial assessment is undertaken by the federal department that has the decision-making authority for the project. If potential adverse environmental effects are significant or where public concern warrants, the project is referred to the federal Minister of the Environment for public review by a panel. | Federal Environmental Assessment Review Office |
| Fisheries Act | Contains requirements regarding the construction of fishways or canals, the provision of fishguards or diverters, and the flow of water. It addresses the harmful alteration, disruption or destruction of fish habitat and includes pollution control provisions regarding the deposit of deleterious substances in water. Provincial conservation officers, where designated fisheries officers, are also charged with enforcement of the federal Fisheries Act. | Department of Fisheries and Oceans and Environmental Protection, Environment Canada. |

| Statute | Description | Agency |
|---|---|---|
| International Boundary Waters Treaty Act | Permits the federal government to take the steps necessary to protect open and free navigation and the maintenance of natural levels and flows of boundary waters (i.e., those waters that flow along or are part of the Canada-United States border, but excluding tributaries thereto). It also commits Canada to prevent pollution of both boundary waters and waters flowing across the boundary. In addition, there are restrictions on uses, obstructions and diversions in boundary waters unless provided for by special agreement and with the approval of the International Joint Commission. | International Joint Commission |
| International River Improvements Act | Provides for the regulation of construction, operation and maintenance of works (flow control or diversion) on international rivers that would alter natural flows and interfere with use of the rivers outside Canada. The federal Minister of the Environment may issue a licence under the Act, or an exemption, if the proposed work satisfies specified criteria. The need to grant a licence or an exemption triggers the Environmental Assessment and Review Process. Recent licences have included conditions relating not only to flow control, but also to water quality and environmental impacts. | Inland Waters, Environment Canada |
| Migratory Birds Convention Act | Ratification of a Canada-United States 1916 Migratory Birds Treaty designed to ensure the preservation of migratory birds. Migratory birds protected include game birds, insectivorous birds and other non-game birds. The Act provides powers for the regulation of the taking and possession of birds. Habitat protection provisions are found in appended regulations that prohibit the disturbance or destruction of migratory bird nests, and the deposit of harmful substances in waters or areas frequented by migratory birds. | Canadian Wildlife Service, Environment Canada |

| Statute | Description | Agency |
|---|---|---|
| Navigable Waters Protection Act | Requires the submission of an application to obtain approval to construct any type of work whatsoever in, under, over or through a navigable body of salt or fresh water. "Navigable waters" includes any body of water capable in its natural state of being navigated by floating vessels of any description for the purpose of transportation, recreation or commerce. It also includes canals or any other body of water created or altered for public use, as a result of the construction of any work, as well as any waterway where the public right of navigation exists by dedication of the waterway for public purposes, or by the public having acquired the right to navigate through long use. | Canadian Coast Guard, Transport Canada |
| TERMPOL Code, Canada Shipping Act | Under the Act, the federal Minister of Transport has authority to establish regulations, codes and guidelines. One such code, the Code of Recommended Standards for the Prevention of Pollution for Marine Transportation Systems and Related Assessment Procedures, or TERMPOL Code, is designed to assess ship safety, route safety and environmental concerns associated with locating, constructing and the subsequent operation of oil, chemical, LNG or LPG marine terminal systems. | Canadian Coast Guard, Transport Canada |